

An analysis of Martha Nussbaum's Capabilities Approach with attention to her use of the term "threshold"

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This paper investigates Martha Nussbaum's capabilities approach, which is influential in current political philosophy and policy making. The capabilities approach is contextualized within the scope of Nussbaum's influences in section I. These influences are primarily Aristotle, Kant, Marx, John Rawls, and Amartya Sen. In section II her own view is explicated with attention to the influences previously described. This section also attempts to clarify certain aspects of her view, such as her use of "person" and "human." This is in order to set the stage for section III, which critiques the various aspects of the approach which were explained in section II. In general, the capabilities approach is found wanting, however there are some useful qualities that are unique to a capabilities approach to political philosophy, ethics, or economics.

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Preface & Acknowledgements

Within the paper, the following abbreviations are used:

FJ = *Frontiers of Justice* by Martha Nussbaum

WHD = *Woman and Human Development* by Martha Nussbaum

HDI = Human Development Index

WIDER = World Institute for Development Economics Research

TJ = *Theory of Justice* by John Rawls

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Section I

The question of what it is good for a person to do is one of the oldest questions in western philosophy. Closely linked to this question is the question of what it is good for a group of people, either socially or politically, to do. Some approaches to political philosophy make use of moral philosophy in order to justify their political claims, and others derive their political force with minimal reference to individual ethics. This paper shall consider the contemporary thinker Martha Nussbaum, who develops an answer for the political question via the moral idea that each human being is entitled to the development of her inherent capabilities in *Women and Human Development*. This paper investigates Nussbaum's "capabilities approach," with attention to the manner in which Nussbaum measures the capabilities, namely, thresholds. This section addresses the background of Nussbaum's approach and the intellectual history of her ideas. It examines the thinkers who have influenced her and the assumptions she accepts, whether implicitly or explicitly.

Nussbaum's capabilities approach and the list of the central human capabilities that she generates, for the first time, in *Women and Human Development* are important for several reasons. The approach has been expanded subsequently, primarily in her newer book *Frontiers of Justice*. Given that all of the significant pieces of the approach are present and outlined in the first book more concisely, I choose to work from *Women and Human Development* as a starting point. All of the main philosophical concepts of the capabilities approach are contained and outlined within *Women and Human Development*. Some ideas are developed more in depth and clarified within *Frontiers of Justice*, particularly by contrast to John Rawls's view, which makes that book a valuable resource when the other seems insufficient. Nussbaum's whole work with capabilities is a meaningful addition to an influential current in sociopolitical/economic/philosophical thought. The contractualist tradition has become the prevailing political philosophy since utilitarianism is now mostly defunct, and Nussbaum brings

new insight into that tradition through her interpretations via both Aristotle and welfare economics.

The contractualist tradition, beginning with Hobbes and continuing through Rawls, is the prevailing tradition from which this current of thought grew. *Women and Human Development* is some of the fruit of the research that Nussbaum and Sen conducted at the World Institute for Development Economics Research (WIDER) from 1986. This work produced the Human Development Index (HDI), which has rivaled GNP as the World Bank's preferred measure of national functioning since its inception in 1993 (WHD 70). Sen's continuing insistence that the ethical needs to be reinstated into the economic tradition, a major motivation behind the HDI, won him the Nobel Prize in economics in 1998 for "his contributions to welfare economics" (Nobel Foundation). Nussbaum's elaboration of her capabilities approach is in many ways an elaboration of Sen's discussion of capabilities. This elaboration would allow governments to legislate and debate about capabilities in a specific way useful for policy making. Sen, for all his contributions to the field, had not developed a specific list of the capabilities. Such a list is vital if politicians want to be able to discuss human capability in their policy. This is because "human capability" is too broad a basis to ground legislation, but specific areas such as "bodily health" might be politically manageable, given some simple delineation.

Nussbaum is a preeminent scholar on the works of Aristotle and often works from an Aristotelian framework (Curriculum Vitae). As a philosopher, she is attempting to ground this capabilities approach and its political consequences in firm philosophical fundamentals. *Women and Human Development* is not the full development of this approach; rather, it is a major step in a long process of justifying capabilities as a source of policy and justifying them within a sensible philosophical framework (WHD xiii-xiv). In *Frontiers of Justice*, the capabilities approach remains far from a complete theory of justice. However, this book does help clarify the approach's relationship to various authors, both in and related to the contractualist tradition, as

well as defend the approach's use of certain bases such as intuition. If this project were to succeed, then we might secure what may be the foremost goal of political philosophy today: a series of sound arguments going from first principles to national policy. This is an enormous project, but Nussbaum's thoughts may lead us a little bit closer to this complete project.

In addition to Aristotle, the major influences on Nussbaum's capabilities approach are Karl Marx, Immanuel Kant, Amartya Sen, and John Rawls. Nussbaum's work is, in many ways, a unique synthesis of these thinkers. It is useful to start off by generalizing and characterizing each thinker's influence on Nussbaum's writing. In order to focus the argument within this paper, much of the thought emanating from these sources will not be critically discussed. These ideas are not foregone conclusions, but they do enjoy wide acceptance. Knowledge of these ideas is instructive because in order to know where a line of thought is going, it is helpful to understand the academic history of the view and its proponents.

Nussbaum probably knows Aristotle's work more thoroughly than she knows that of any of her other influences. Her PhD topic at Harvard was classical philology. Several of her articles, particularly earlier ones, are on elements of classic philosophy; her first three job titles all included "philosophy and classics" and the BBC even recruited her to speak on Aristotle in a documentary (*Curriculum vitae*). She is committed to his ideas and she takes several tenets of her own work from his tenets. Nussbaum, like Aristotle, maintains that there is something noble about the human, although they differ about what is noble about us and what we ought to do about it (WHD 73). Aristotle also wrote that it is our rationality that distinguishes us from other animals, and it is our "function" or "task" as humans to act rationally and in accordance with virtue. His conception of happiness is that it is only achieved by doing things in this manner, contrary to the view that happiness is a static state (Kraut section 2). From this Aristotle drew his description of the good life and happiness. Nussbaum retains the emphasis that he puts on rationality as central being human. She states that she understands the term "fully human way,"

a phrase from Marx, to be a way “infused by practical reason...” (WHD 72). Later, she claims that practical reason, along with sociability, “both organize and suffuse” her list of capabilities (WHD 82). These two assumptions, about human dignity and rationality, may be simple, but they are deeply ingrained in Nussbaum’s writing.

While Aristotle is notable for the origin of tenets held deeply by Nussbaum, Marx is notable for his interpretation and coloring of another source, to wit, Aristotle. What Nussbaum identifies as Marx’s interpretation of Aristotle is that there is something unique and distinctive in the way that a human undertakes certain actions. This way is the “truly human way,” described above, contrasted with a “merely animal way” of acting. This account is an expansion on Aristotle’s idea that rationality is central to what it is to be human. Nussbaum goes on from Marx to include that these actions or functions often mark the presence or absence of human life by their own presence or absence (WHD 72). Marx also shifts emphasis on the essential characteristics of a human. In *Economic Manuscripts of 1844* he writes “the individual *is* the *social being*. The expression of his life...is therefore an expression and assertion of *social life*” (Wessell Jr. 194).

Marx is not alone in this identification of the human as an inherently social and dignified creature, nor is he first. Nussbaum also finds this within the natural law theory of Hugo Grotius. Although Nussbaum is attempting to revive Grotius in the realm of international relations (FJ 36), the underpinnings of Nussbaum’s thought seem to come from Marx. Marx contrasts what it is to be human with the animal, claiming that human functioning is somehow higher. Marx captures his idea of animal-like functioning with his example of a starving man, again in the *Economic Manuscripts*, “[food] could be available in its crudest form and one could not say wherein the starving man’s eating differs from that of *animals*.” In the previous sentence, Marx claims that food would not even exist in its “human” form for the starving man (Wessel Jr. 197). This example is meant to capture the qualitative difference between the functioning of a man

who is starving and the functioning of one who is well fed. Marx was writing this with the starving proletariat in mind. For Nussbaum, Marx saw the human being who was without sufficient food or means to it as denied the dignity inherent in being human. It is more likely that Marx realized how needs shaped one's conception of reality. Regardless, the proletariat was reduced to acting in a subhuman, or less than human, manner because of the constant disability of hunger. The analogy here is easy: where Marx saw the suffering proletariat, Nussbaum sees the suffering Indian (woman). Nussbaum interprets the notion of the human form of food, or human form of any task, as a form "infused by practical reasoning and sociability," as noted above (WHD 72). Nussbaum is closely in step with Marx in her emphasis on sociability, putting it on equal importance with practical reasoning in understanding the human condition.

Kant, like Aristotle, left a large body of work which spawned a vast body of work responding to it. Kant's ethics settle around his Categorical Imperative. The roots here are imperative as a command and categorical in that it applies universally. Kant's Imperative applies across rational wills, which he assumes includes primarily people. Therefore the Imperative bears on what we should or should not do (Johnson section 4). The Imperative actually has several formulations, but the relevant one is the "Kingdom of Ends" formulation. This formulation is marked by three characteristics: (i) that we conform our actions to laws laid down by a legislator, (ii) that these laws are universal in scope, applying to all rational wills, and (iii) the laws are such that it is possible for each and every will to have been their legislator. Since each will ought to be treated as a legislator of binding laws, it continues, each will ought to be treated as an end in itself (Johnson section 8). This conclusion is what Nussbaum latches on to. Her primary principle, that of "each person's capability," is based upon her "principle of each person as an end," which is a principle derived from this version of the Imperative and actually underwrites and supports what one might think was her fundamental claim, that of each

person's capabilities (WHD 5). This is the case even though nowhere does she offer a justification for the principle of each person as an end nor for the Categorical Imperative.

Kant's disposition towards agency, his own view indebted to Rousseau, is also relevant to Nussbaum's endeavors. In general, Kant held that "human dignity requires humans to make [their own laws]." This topic is addressed in the 1784 essay "An Answer to the Question: 'What is the Enlightenment?'" (From Modernism to Postmodernism 45). The idea that human dignity requires agency plays a hardy role in the capabilities approach. Kant figures significantly in the contractualist tradition, although he is part of a different branch of it than Rawls. In addition to the above similarity, Nussbaum's perceives that Kantian contractualism includes moral judgments within it from the beginning, unlike Rawls's *Theory of Justice*. For these reasons Nussbaum considers Kantian forms of the contractarian tradition to be especially close allies of her capabilities approach (FJ 95). Like Kant, Amartya Sen also puts significant emphasis on agency, for Sen treats it as an intrinsic good, or a good in itself (Sen 1987 p.41).

One ought not underestimate the influence of Amartya Sen on the capabilities approach. One may think this difficult, since Nussbaum devotes four pages of the introduction to which aspects are and are not common between their respective approaches, a fact that in itself indicates a deep interconnectedness (WHD 11-15). Sen was developing his own ideas about measuring economic development through capability development when the two thinkers began collaborating at WIDER in 1986 (WHD 11). This institute is a branch of the United Nations, and a version of a capabilities approach would continue to influence the UN as the underlying principle of the *Human Development Reports* and the United Nations Development Programme (UNDP), as well as the influential HDI (WHD 70). Nussbaum notes no end date to their collaboration, and presumably it continued for the 14 years until the publishing of *Women and Human Development*. Notably, this publication in March 2000 was only six months after Sen's publication of his work explicating capabilities within his economic development approach,

Development as Freedom. It seems that they each became satisfied with their capabilities approach at about the same time, suggesting close contact throughout those 14 years.

Sen holds several views relevant to the discussion of Nussbaum's capabilities approach. Sen wants to bring ethics back into economics, and employs a form of capabilities to do so. Sen has held for some time that this loss of ethics is a loss for which economics suffers (Sen 1-2, 5). He also holds the converse, that "there is something to be gained for ethics from reasonings of the type much used in economics" (Sen 10). Given their extensive collaboration, Nussbaum's work in ethics seems a likely place to find this influence of economist-like reasoning. Sen has also argued that there is an irreducible tension in the ethical conception of a person. This tension is between measuring that person in terms of her agency, "recognizing and respecting his or her ability to form goals, commitments, values, etc.," and in terms of her well-being, which may often be related to a utility function (happiness or desire-satisfaction) in economics (Sen 41).

This desire to maintain two independent axes by which to judge a person ethically is also found in Nussbaum, even though she denies the terminology that Sen employs, "agency" and "well being" (WHD 14). It is this desire that may plausibly be driving her critique of both "subjective welfarism" and "platonism," each of which only utilizes one of the two axes that Sen maintains. Furthermore, her conclusion is that her capabilities approach achieves a valuable synthesis of, or "mean between," the two; she includes both independent axes of judgment in it (WHD 116-119). This set of critiques will be addressed later; for now suffice it to say that each depends on one axis of evaluation. Whatever else may be said of Sen's role in Nussbaum's work, she summarizes his influence on her work best herself, in her acknowledgements: "Above all I am grateful to Amartya Sen, who helped to formulate the project, and whose work has been, and continues to be, a source of insight and inspiration" (WHD xvi).

Within the families of philosophical traditions, Rawls's contractualist theory is most directly the progenitor of Nussbaum's capabilities approach. Her capabilities approach "follows

and extends” Rawls’s theory in many respects (FJ 94). Nussbaum is using several terms, such as “political liberalism,” “theory of justice,” and “overlapping consensus,” exactly as Rawls defines them. An overlapping consensus is a political agreement that can be arrived to and agreed upon even by people who have fundamentally conflicting views about the basis of political goals, such as religious or moral views (Rawls 1993 p.133-168). According to Rawls, such a consensus requires different reasonable doctrines to each “endorse the political conception, each from its own point of view. Social unity is based on a consensus on the political conception” (Rawls 134). Thus, without an overlapping consensus Rawls does not believe that society can be stable. Additionally, Rawls claims that in a consensus it is society’s politically active citizens who confirm the doctrine and that “the requirements of justice are not too much in conflict with citizens’ [preformed] essential interests” (134). The idea of an overlapping consensus is particularly important because Nussbaum believes that the capabilities approach can be the object of a worldwide overlapping consensus; thus it is a fair guide to policy (WHD 5). We shall return to the concept of an overlapping consensus and its interaction with the capabilities approach in section III.

Rawls notes that he is using the term “political liberalism” in a way peculiar to what may be its common meaning. By political liberalism he means a particular understanding of what a constitutional democracy ought to be, namely a society structured by justice, the conception of which is the subject of an overlapping consensus among differing reasonable doctrines, and which guides public discussion on essential issues (p.1, 43-46). A theory of justice is a complete normative theory about what is fair for an institution or government to require of its citizens, including the interaction between citizens. A key feature of Rawls’ theory of justice that Nussbaum relates to her capabilities approach is Rawls’s conception of primary goods. Primary goods are supposed to be the things that every rational man would want to have, no matter what his plan for life is, because these primary goods are required to execute any plan that the rational

man could have (Rawls 1971 p.62). It is a fair distribution of these goods that a political society can form and act on, and this basically determines whether a government is just or not. Rawls's primary goods are of three primary types: basic rights and liberties, typically such as those covered in the Bill of Rights; non-basic rights such as political or social power and positions; and thirdly wealth and income (Noggle). Rawls also discusses self-respect as a primary good, and suggests that it may be the most important one (Rawls 1971 p.440). He may be including self-respect loosely within the first broad group of rights and liberties, but his treatment of it makes it seem that it is within its own category.

This is important because Nussbaum's list of capabilities may be seen as a modification of Rawls' list of primary goods. She notes that the list of central human capabilities is similar, partially in substance and particularly in spirit, to the list of the primary goods. There are some important differences between the two lists, however. Nussbaum notes two: that her list is one of capabilities rather than functions (differentiated in section II), and that her list protects a person's ability to pursue what they themselves value outside the list (WHD 74). Nussbaum later claims that the primary goods are reducible to terms of income and wealth alone, since Rawls insists on measuring "relative social positions in a precise way, by appeal to income and wealth alone – a part of his theory that causes large difficulties" (FJ 84). If this reduction does exist, it must exist only in our assessment of the primary goods, because Rawls is explicit in that citizens may not exchange their basic liberties for economic gains. In this sense, the two types of goods are qualitatively distinct (TJ 62-63). Such a reduction in Rawls's list would make the qualitative distinctness murky; her capabilities are claimed to maintain this distinctness not only of goods/capabilities but of their assessment.

It is not clear that this reduction exists in Rawls; Nussbaum's claim of reduction is possibly based on a couple of simplifications Rawls makes. Firstly, the manner in which we measure political and social power may be reduced to a measure of wealth and income, since

power is elusive to measure and wealth is a good approximation of power. Secondly, one might imagine approximating basic rights and liberties on a basis of social power. This approximation does not seem as plausible as the first, but the other argument is that basic rights are supposed to be equally distributed to all citizens. Indeed, all the primary goods are to be distributed fairly, especially since in real cases they are scarce. “Fairly,” here, means that all the primary goods must be distributed equally unless a distribution that is unequal benefits everyone involved (Rawls 1971 p.62). However to distribute the basic rights and liberties fairly everyone is entitled to each liberty in equal proportion. If this were the case, then one would not need to measure or quantify them, a task which would prove difficult anyway. For this reason Rawls does not attempt to measure the first primary goods (rights and liberties), and the second (social and political power) are reducible to income, a very easy thing to measure. Rawls does, however, serially order the primary goods, such that no amount of increased economic success could justify a forfeiture of basic rights (Rawls p.63). This serial ordering is a conception of politics that Nussbaum incorporates into her view, however for her it is the capabilities that cannot be sacrificed for money.

Although Nussbaum, like Rawls, incorporates the importance of basic liberties (capabilities) over economic advantage, she makes the question of distribution secondary in the capabilities approach. This change is contrary to Rawls’s emphasis on the fairness of distribution, for that is central to his concept of justice as fairness. Within the capabilities approach, we are primarily concerned with the individual and her flourishing via capabilities. The capabilities approach in itself, although an incomplete theory of justice, makes no motion to require that each person be entitled to an equal portion of anything, just so long as everyone would have enough to be considered flourishing. Nussbaum is certainly sympathetic to a more nearly equal distribution of wealth and resources, and in some cases Nussbaum proceeds to argue that equal distribution may be requisite for everyone to reach the threshold of a certain

capability, such as in the case of being treated with dignity and respect (FJ 292). While this conclusion is a happy convergence, in Nussbaum's opinion, it is a convergence from different approaches. It may later be important for Nussbaum to discuss the fair distribution of limited resources in promoting the realization of these capabilities within a community or fair distribution among citizens who are all above the threshold, but she is concerned first with establishing human capability and flourishing, i.e. everyone living at or above the threshold of her capabilities, as something we ought to care about. It is perhaps because of this consideration that the capabilities approach is not to be considered "a complete theory of justice" (WHD 75).

Both the list of central human capabilities and the list of primary goods are offered in the "political-liberal spirit." Such a spirit is one with political purposes, offering a moral basis for constitutional guarantees, and appeals to people with widely different views on "what a complete good life for a human being would be" (WHD 74). Such a spirit is closely linked to wanting an overlapping consensus, and derives from the ideal formulation of a liberal constitutional democracy. Nussbaum's formulation of the capabilities approach, which allows for "multiple realizability," facilitates its role as an overlapping consensus by easing the acceptance of the approach by people who hold different comprehensive doctrines. Most comprehensive doctrines will have different views from others on what it is good for a human being to be and why, but the capabilities approach aims to be compatible with all of them.

The statements below are, in no particular order, ones that Nussbaum accepts and that this paper will not critically examine. Each has been disputed, with varying efficacy, in the past, but they have stood the test of time reasonably well. These are distilled here from the discussion above; all are consistent within their own traditions. The potential does exist, however, that each of these ideas is internally consistent within its own system of thought but that Nussbaum's synthesis brings about inconsistencies in her view. The simplest way for such inconsistencies to arise would be if Nussbaum did not accept some of the premises necessary for the support of one

of these ideas, but there could be more complex interactions. Such possibilities will be addressed in section III.

(1) There is something special about a human being, and this entitles her to a life of dignity.

(2) The key characteristics of a human being are her rationality, sociability, and political relationships. In *Women and Human Development* Nussbaum emphasizes the first two without mentioning the third, while in *Frontiers of Justice* she downplays the importance of rationality and substitutes that the human being is inherently social/political (FJ 85). For the sake of inclusiveness, all three will be assumed, although the assumptions within the earlier book (rationality, sociability) have the greater historical backing.

(3) A liberal democracy is the best form of human government.

(4) A human's agency, or ability to affect her situation and freedom to choose, is equally important to the moral evaluation of her situation as is her state of well being. These two considerations are not commensurate and both are valuable independently. This importance presumes that free choice actually exists, also.

(5) An individual, person, or human must be treated as an end in herself, and never as a mere means to another end.

(6) An overlapping consensus between people within a nation about basic political principles, such that might compose a just constitution, is possible and meaningful. Such a consensus is also useful among and between nations.

All of this being said about Nussbaum's influences and assumptions, we are now in a position to actually discuss Nussbaum's view. As mentioned at the beginning, this paper focuses itself through the lens of how Nussbaum assesses her capabilities, to wit, thresholds. In order to ease into the discussion, Nussbaum's concept of "flourishing" needs to be introduced. Next, the groups of individuals to whom Nussbaum's capabilities apply to shall also need consideration.

Here a discussion of the distinction between the terms “human” and “person” is useful, as well as one of the spheres or circles which Nussbaum envisions. After that, Nussbaum’s distinction between capability and function can be discussed. Additionally, a discussion of tragedy is important. Also, a model of threshold, adopted from neuroscience, is instructive. Following the current version of the list of capabilities, some of the prominent features of the list as a whole shall be presented. All of these discussions are contained within section II. Section III will work to identify some serious tensions or problems that exist within the work.

Section II

According to Nussbaum, crossing the threshold of each and every capability ought to be achieved for each human being. “Crossing the threshold” in this sentence might evoke images of passing through a doorway, which isn’t entirely off base. Before you cross the threshold of a house, you are outside it, and after crossing the threshold you are inside, and there is not much of a grey area in between. This is an approximate metaphor, but a more in depth metaphor shall be developed in the following paragraphs. But before the discussion of thresholds themselves may be undertaken there is much groundwork that must be prepared. These topics are: the term “flourishing;” the distinction between the terms “human” and “person;” Nussbaum’s goal of “capability,” as opposed to “functioning;” the importance of the concept of tragedy to the capabilities approach; and the list of capabilities that Nussbaum proposes, as well as some features of the list.

One possible explanation as to why Nussbaum employs thresholds is that they help her to capture the qualitative difference between a person who is deprived or “animal-like” and a person who exemplifies human virtue. These two states lie somewhat distant from each other on the continuum of human existences. It is not particularly easy to identify exactly the point at which a dignified person becomes an animal, but there does seem to be a real, qualitative difference between these two ways of existing. Nussbaum’s thresholds are meant to designate the point at which a person transitions between this underserved, animal-like state and the dignified, appropriately human state in each area that is considered central to human functioning.

If a human is at or above threshold in all of these areas, of which Nussbaum posits ten, then she is “flourishing.” A flourishing human is not perfect or ideal, but thriving, successful, prospering, or faring well. A flourishing citizen will exhibit all of the functions that one might judge to be central to “truly human functioning.” Citizens that are flourishing “have been judged to be worthy of respect and wonder” (FJ 347) and “certain basic aspirations to human flourishing

are recognizable across differences of class and context” (WHD 31) even though the specifics of what one culture might consider flourishing may vary with another culture’s specific conception. Allowing variation is a departure from Aristotle’s normative theory, in which there was a singular conception of flourishing to aspire to. This departure is a result of the political nature of the approach, for in order to be more acceptable as an overlapping consensus among citizens with different metaphysical views Nussbaum’s conception of flourishing, and the capabilities that that describe it, is “explicitly nonmetaphysical” (FJ 182).

The capabilities approach intimately deals with the idea of what it is good for citizens to do. Nussbaum considers what governments ought to encourage, allow, and deny their citizens to do, which is an extension of what it is good for those citizens to do. There is not a one-to-one correspondence between what a person or a human ought to do and what a government ought to require or permit its citizens to do since special considerations arise with the collectivization of individuals, but the two are closely related. Restating Nussbaum’s position, the goal of a government should be to enable every individual citizen to flourish. Nussbaum is concerned not only with the capabilities of humans but also with the capabilities of persons. Therefore, there is one clarificatory distinction that should be made before continuing. Since ethics is concerned with what one ought to do, it is important to clarify exactly what one is. This is why it shall be instructive to distinguish between the terms “human” and “person,” as they may take on different senses. Note that in the previous paragraph the goal of Nussbaum’s ethic is described in terms of citizens. Consider, however, whether the important characteristic of a citizen is that she is a person, or that she is a human. This is not a distinction that Nussbaum makes explicitly, which is unfortunate because she seems to conflate the two terms occasionally.

But let’s get the horse back in front of the cart, and make a distinction between “human” and “person.” In this paper, the terms “human being” or “human” shall be used by the author to signify a member of the biological species *Homo sapiens sapiens*. Using “human” to indicate

exclusively human life is not to say that “human” is a bland term; a member of this particular species may possess certain key properties, privileges, rights, duties, or goals. For example, one might hold that as a human one ought to aspire to be virtuous. A person also has distinct properties. However, pinning down what a person is is more difficult, because “person” is not a biological category (species are in fact not constant, but they are more easily defined) but rather a slippery term foremost about a mind, however embodied. One definition could identify persons with moral agents, or things that can be held accountable for what they have done. This connection of personhood to responsibility for actions, and thus normative claims, was first proposed by John Locke in his *Essay Concerning Human Understanding* (Shoemaker section 1). Locke also identified a person by its constant series of memories (Locke II.xxvii.12-26). A person could also be considered a conscious entity that is concerned for its well-being. Although Lucretius and Plato each considered how to identify a person and what comprised a person, they both held this view connecting personhood with prudence (Shoemaker section 1). It is also a general tenet of modern considerations of personhood that a person persists through time, and thus also has a certain history (Shoemaker intro). This family of definitions aligns closely enough with what we mean when we say, “I talked to a person today.”

Importantly, though, a human being need not be a person and a person need not be a human being. Although in the world we currently know a person is usually a human, it has been maintained that corporations are legally persons. Corporations have been granted the protections of the equal protection under the law and due process of law clauses (in the 14th amendment), which hold that no “person” shall be denied these rights (Grosjean v. American Press Co., Inc.). It may also be argued that some humans are not persons. Nussbaum notes this argument is often made within medical ethics, regarding judgments of mental damage severe enough to render the patient no longer be judged a person (WHD 73). For example, such considerations often justify discontinuing life support, on the grounds that it is the right of a person, as opposed to a human,

to live. A nonhuman person is also imaginable: consider Data from Star Trek, or any other android. When Data is injured, we feel for it, nay, him, just as we feel for any human person. This thought experiment may be less fantastical than it might appear, as computer science continues to advance, but the situation is not immanent. Intelligent machines would certainly throw ethics for a loop, but so would other nonhuman entities that plenty of people consider to exist, such as angels. Regardless, if we disassociate personhood from human being, ethics may be better able to cope with these other entities. However the real point, for this discussion anyway, is to avoid conflation in Nussbaum's account of what capabilities and thresholds apply to whom and why.

This task of disentangling is made more difficult by the fact that Nussbaum does not make this distinction in her work, and sometimes the distinction matters for interpreting her work and her quotations. When she is talking about "truly human functioning" it is not clear whether she actually has a person or a human in mind as the entity that is functioning in such a way. She comments that certain human beings may be so mentally impaired as to not count as "human" within her approach (WHD 73), although it is obviously not possible for a human being to lose her membership in the human species by being excessively senile. Here it seems clear she means person. She also states that the basis for a "person's" claim to be treated justly in Nussbaum's approach is her existence as a "human being" (FJ 285). However, she simultaneously holds that in order to grant nonhuman animals a claim to justice that they could be considered "persons," albeit in an extended sense (FJ 63). The relationship between humans and other animals had not previously been one of justice (TJ 505). Nussbaum also wants to expand the scope of justice to those humans who especially lack capacity such as the disabled or those in foreign countries, who are often forgotten. She is hoping to demonstrate that nonhuman animals and these other groups can be treated through the considerations of justice that were previously reserved for healthy men of individual nations (FJ 22).

An effort shall be made to keep the terms distinct and make her meaning clear, and if there is particularly good reason to replace one word in a quotation with another that replacement shall be explicitly noted. Nussbaum explicitly states that what grants a claim to one's development of one's capabilities is existence as a human being, i.e. a member of the biological species. Therefore the preferred word in this paper in rendering Nussbaum's work is "human," not "person," since it seems that for better or worse humanity, not personhood, is the key attribute that determines whether the capabilities approach applies to an entity. Also, "citizen" is used without special meaning in situations where the person-human distinction might be distracting and we are simply talking about individuals within a government. We will leave aside critical discussion of Nussbaum's treatment of nonhuman animals since her thought in the area could benefit from much fuller explanation, and it is outside our central concern of the central human capabilities and their assessment via thresholds.

A distinction that Nussbaum holds to be important is that between capability and functioning. There is an intimate relationship between the two concepts, but they are importantly distinct. Note the difference between a person voting, and exercising her function to vote, and a person being fully able to vote but deciding not to. Both of these instances are very different from, say, African Americans under Jim Crow. Those humans actually didn't have the real capability to vote, due to several institutional and societal barriers. Nussbaum's point is that citizens must have the capability to act above a certain threshold, but not actually be forced to do so. This emphasis is in order to preserve a person's capability to plan her own life, which is itself a reference to the good of agency. Sen has argued that agency is intrinsically desirable, and it seems that Nussbaum would agree (Sen 41-42). She states that "the reason for proceeding in this way [requiring capability rather than function] is, quite simply, the respect we have for people and their choices" (WHD 88). It also is meant to help in avoiding paternalism, which is related to agency, and a topic which I shall discuss later in this section.

The emphasis on capability as opposed to function is intended to capture the difference between fasting and starving, which is an explicit reference to Marx's archetypical example. One may choose to fast, and this is fine, Nussbaum says, since one who fasts has the capability to eat. One may not choose to starve, however, and a starving human is not what a human ought to be (WHD 72). This distinction seems to come down to the high value that Nussbaum, like several of her forebears, ascribe to free choice. Indeed, a reasonable definition of fasting might simply be 'choosing to starve.' But as long as the individual has the choice, the real choice, to realize her capability but chooses not to, no injustice is done, in Nussbaum's opinion. This distinction is supposed to be analogous to other specific capabilities as well. For example, a lawyer in the US may choose to work a 110-hour week and forgo play. However, a woman in China, who is without legal protections on the length of a workday or minimum wage, but also needs to earn a living, cannot choose whether or not she will work seven days a week and 14 hours a day because those are the conditions of the only jobs available to many citizens. She either works that schedule or works none at all, and starves. There are several other considerations that might go into the injustice of such working conditions, but this time commitment is intricately connected to the dearth of social and emotional connections the workers make, their limited ability to associate with others and to play (Wal-Mart: the High Cost of Low Prices). This example highlights the interconnectedness of the capabilities of an individual, and that although each is uniquely important in its own right for human flourishing, each influences every other.

Nussbaum's conception of capabilities is one of the "central human capabilities" (WHD 5). These capabilities are human exactly in the sense that rationality was human to Aristotle, namely that they are intrinsic to us as human beings. So the citizens to whom Nussbaum's approach applies are to be thought of as human primarily. Her use of "person," such as her principle of "each person's capability," is probably better read as a principle of each individual's

or each human's capability; person seems to be substituted with its informal meaning (WHD 74). Regardless, this distinction will still establish a tension between the foundations that Nussbaum finds in Aristotle and those she finds in Kant, which will be discussed in the following section.

Tragedy and what is considered tragic is important to Nussbaum's approach for two reasons. First, by reflecting on what may be considered tragic we can identify what capabilities are central to human function by their absence; Nussbaum considers tragic events to often highlight areas in which a human is denied the life she is worthy of. Secondly, a sense of tragedy is necessary in order to identify the specific levels of each of these capabilities at which a person is to be considered flourishing.

Nussbaum's sense of tragedy is loosely based on Aristotle's that is forwarded in his *Poetics*. Aristotle's account is much more specific, applying only to the one sort of play or poem; tragedy is opposed to comedy, and those are the two ancient classifications. Nussbaum is also seeking sources of tragedy within literature, so her expanded sense of it may just be due to the fact that she has a much richer canon from which to choose. In the *Poetics*, Aristotle explains that tragedy is marked only by "pity and fear," pity being that which is "aroused by unmerited misfortune" and fear the emotion that is aroused "by the misfortune of a man like ourselves" (*Poetics* 7.2). This is not just any misfortune, but rather only misfortune that is "brought about not by vice or depravity, but by some error or frailty" in the character we are observing (7.2). The tragic character does not deserve her fate, for it is brought about by human error or weakness, yet she is denied something that the human audience observes to be a feature common to all of the audience. This statement is what Nussbaum's concept echoes in her modern language. She holds that "certain deprivations are understood to be terrible" no matter the culture that experiences the tragic plot (WHD 74). Nussbaum believes that the list of central human capabilities can be listed at all because she senses the cross-cultural consistency of certain

deprivations that evoke pity and fear, i.e. a sense of tragedy a la Aristotle, whenever those deprivations are observed (WHD 74).

For an illumination of what in particular is tragic Nussbaum might have us turn to the vast accumulation of literary and mythological characters whose experiences evoke feelings of loss and tragedy as we involve ourselves in their stories. She herself recounts two, more personal, tales: those of Vasanti and Jayamma, “two women trying to flourish” in different parts of India (WHD 15-24). It is through their narratives that Nussbaum continually attempts to communicate to her reader what her sense of tragedy is and in the assumption that our sense of tragedy will align. Like any other tragic stories and tales, these are supposed to contain a broad, cross-cultural appeal to which all citizens could agree. Indian, Japanese and English citizens are all supposed to find both Othello and the 47 ronin just as tragic as each other. Additionally, we are all also supposedly able to make judgments about when someone is flourishing or not. Nussbaum does not spend much time on this positive identification of flourishing, but it is the lack of this positive sense that lets observers know something is not right in the first place. Nussbaum must think this topic a rather simple case, for she spends hardly any time on tragedy and the definition of it, even though she is basing her list of capabilities on the sense of deprivation and the emotions of pity and fear. Whether there is actually a broad cross-cultural consensus about what different citizens find to be tragic and to arouse those emotions is an empirical matter that Nussbaum does not address. Further, it is not clear if it is sufficient for a simple majority of citizens to deem certain situations tragic, or if everyone is needed to agree, or if there is some other percentage of agreement required. It may also be that as long as everyone finds some things tragic Nussbaum may posit capabilities in the first place, and this is sufficient. Since the list of capabilities is plastic, as we shall see, as long as something can be identified by the sense of tragedy Nussbaum has some footing upon which to expand her idea that what we

ought to care about is human capability (in regards to what citizens and governments ought to do).

Now it is time to turn to the question about what it actually is that we humans “are actually able to do and to be” (WHD 5). Unlike Sen and her other predecessors in the capabilities tradition, Nussbaum posits an actual list of the central human capabilities that should be measured to determine whether or not a human being is flourishing. The list is explicitly plastic, however. She is not so audacious as to presume she has the list perfect. So while the general idea is of capabilities as the aspiration, i.e. what is important to a moral theory, exactly what the capabilities of a person are could be argued for or against (WHD 77). The capabilities are intended to capture what a worthy human life would look like. Humans are certainly possess more than the ten capabilities that are listed. Nussbaum mentions the capability to be cruel as an example, for while humans certainly have the capability to be cruel it is not considered to be a capability central to the achievement of a fully human existence (WHD 83). The capabilities on the list central human capabilities are generated by reflection on two sides of the same coin, human flourishing and human tragedy. Reflection on a flourishing human life generates a positive list of what capabilities we have good reason for including in our list of central human capabilities because we can identify what capabilities are present in a human with such a life. By reflecting on tragic circumstances we can derive what capabilities are central by their absence.

The ten capabilities identified in *Women and Human Development* are essentially the same as those presented in *Frontiers of Justice*, the main title of each is the same but there are some minor adjustments made to the wording of the explanations of each capability. Appendix *i* contains the 2000 version of the list with alterations notated. The current (2006) form of the list is as follows:

1. *Life*. Being able to live to the end of a human life of normal length; not dying prematurely, or before one's life is so reduced as to be not worth living.

2. *Bodily health.* Being able to have good health, including reproductive health; being adequately nourished; to have adequate shelter.

3. *Bodily integrity.* Being able to move freely from place to place; having one's bodily boundaries treated as sovereign, i.e. being able to be secure against assault, including sexual assault, child sexual abuse, and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.

4. *Senses, imagination, thought.* Being able to use the senses; being able to imagine, think, and reason – and to do these things in a “truly human” way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing works and events of one's own choice, religious, literary, musical, and so forth. Being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise. Being able to have pleasurable experiences, and to avoid non-beneficial pain.

5. *Emotions.* Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having one's emotional developing blighted by fear or anxiety. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)

6. *Practical reason.* Being able to form a conception of the good and to engage in critical reflection about the planning of one's own life. (This entails protection for liberty of conscience and religious observance.)

7. *Affiliation.*

A. Being able to live for and towards others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of

another. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and also protecting the freedom of assembly and political speech).

B. Having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails protections against discrimination on the basis of race, sex, sexual orientation, ethnicity, caste, religion, or national origin.

8. *Other species.* Being able to live with concern for and in relation to animals, plants, and the world of nature.

9. *Play.* Being able to laugh, to play, to enjoy recreational activities.

10. *Control over one's environment.*

A. Political: being able to participate effectively in political choices that govern one's life; having the right of political participation, protections of free speech and association.

B. Material: Being able to hold property (both land and movable goods), and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure. In work, being able to work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers. (FJ 76-78; for comparison WHD 78-80)

There are several features of the list as a whole that Nussbaum establishes. Each capability must be satisfied in itself in order for a person to be considered flourishing. In this sense the capabilities may be said to be independent of one another; more of one is not to be substituted for less of another, particularly if that reduction is to below threshold. In another light, the capabilities can be seen to be extraordinarily interconnected; none of them can be satisfied independently of all the others. Being properly educated will certainly aid in political participation, and being able to emotionally relate to others and to have an imagination will aid in play.

It would also be possible to institute a hierarchy among the capabilities, claiming that a human's capability to bodily health must be satisfied before her capability to affiliate could be satisfied. Restated, one might think that bodily health, or integrity perhaps, is a necessary condition for the capability to affiliate. Henry Shue has developed such an approach as regards to human rights, at least (Shue). However this rigid ordering of importance is misleading in talk of capabilities, since all of the capabilities interact meaningfully with each other, and one is not more fundamental than any others (WHD 81). Attaining capability above threshold in all ten of the capabilities is required for a human to be considered flourishing. Practically, one may need to be fed first in order to concentrate on learning to read. But both being healthy (fed) and being educated are equally requirements of human flourishing. Nussbaum does highlight two of the capabilities as of particular importance, however, since they "organize and suffuse" the rest of the list. These two are the capabilities to practical reason and affiliation. This should not be at all surprising, given her commitment to Aristotle and Marx's interpretation of him.

Indicating that her approach applies to humans insufficiently specifies the targets of her approach because Nussbaum also must indicate over which humans her approach is intended to be applicable. Nussbaum intends specification of where thresholds are crossed for the various capabilities to occur within two spheres. The more inclusive sphere is to provide for a more general definition of the threshold levels of each of the capabilities. This sphere is a universal sphere, and it is designed to allow Nussbaum's capabilities approach to fulfill its role as a purported universal approach, whereby it must be able to judge any situation about justice or political efficacy. Risking stating the obvious, a universal theory is one that applies to everything and so a universal ethic applies to everything that can have ethical considerations applied to it. Nussbaum's approach is expressly intended to be universal in scope, and she spends much of chapter one, in which the capabilities approach and list is found, defending

universal values from several critiques (WHD 34-59). The chapter is, in fact, named “in defense of universal values.”

Despite the universal nature of her approach, Nussbaum takes pains to emphasize that her approach has another sphere of specification. There will be a multiplicity of these smaller spheres, but they are meant to be for the most part distinct from one another. They may be thought of as domains of influence, which are often nation-states. Nussbaum emphasizes that the larger sphere is sufficiently general to allow for the existence of smaller spheres of specification. What she emphasizes is the “multiple realizability” of the capabilities approach. This is again similar to Rawls’s approach. For him, constitutional democracies were defined with reference to his theory of justice. In this way the individual democracies were allowed to vary slightly as long as they were defined by the broader, more general theory, which effectively creates a situation of multiple realizability of his theory. These smaller spheres of nation-states, or perhaps cultural blocs, act through constitutional mechanisms or other mechanisms that are deemed legitimate. Nation-states would be free to specify threshold levels more precisely within their sphere, as well as the manners in which these levels are to be encouraged, reached, and secured. This move is intended to preserve the cultural diversity that is found in the world while maintaining a system by which to make judgments about the state of humans in other cultures. As one can easily surmise, the existence of two spheres of specification in a universal account of ethics is itself a potentially destructive tension within the approach. This tension will be handled with the others, in section III.

The final pertinent feature of the list is its intended “multiple realizability,” particularly as a defense against paternalism and a way to respect the agency of humans, which were mentioned briefly earlier. By multiple realizability it is meant that different members of the list may be specified more concretely within different cultural traditions and still satisfy the general form of the capability (WHD 77). This realization of the capabilities approach is intended to occur

within the smaller sphere of specification of the approach. It may include particular, specific threshold levels or goals, but also, and perhaps more importantly, the various political or community programs that would be enacted in order to promote these levels. For example, if one compares approaches in the capitalist United States and socialist France to facilitate their citizens in attaining their capability to be healthy one finds different sources of funding, liability rules, insurance plans, &c. However, as long as the citizens in both countries are above threshold (which is not currently the case) the difference in approach is irrelevant.

This feature of the approach is one of Nussbaum's defenses against paternalism and one way to facilitate or maintain cultural pluralism across the world. Paternalism, simply, is a style of managing an institution or system in the manner of a father for his children. In a paternalistic system intrusive decisions are made that deny the subordinate members, like children, general authority, responsibilities, or rights. This is also generally said of governments, which have the power to enforce these intrusive decisions, either by force of arms or even by the tyranny of the majority in a democracy. Fears of paternalism could be presented in opposition to universal norms, insofar as such norms would not show the proper respect for the agency of the citizens of much of the world since the system tells people what they ought to value.

Paternalism is seen to be distasteful by Nussbaum for several reasons, which are included in her rebuttal of the "argument from paternalism" (against universal norms). Most notably, a paternalistic system seems to remove a person's freedom as an individual agent, which we know that Nussbaum values highly, and also the related responsibility as a democratic citizen (WHD 51). Such a system would also imply the pretentious presumption that its judgments are better than the judgments of all the individuals over which the system applies. This is a particularly difficult claim on a global scale, since a paternalistic claim would insult many of the billions of people in the world. Many claims of paternalism are lodged against Eurocentric or Western ethics that are attempting to prescribe duties and values to those in vastly different cultures. Any

societal power structure inherently removes the rights of its members to some extent. This exchange is at the heart of the contractualist tradition. A paternalism argument may also be indicating the problem as the manner in which the contract is arrived. A contract into which each member enters willingly and agreeably is not objectionable, since each party has consented to give up her rights, rather than have them taken away by a father figure. Furthermore, much of the good of these institutions is that they are potentially capable of protecting certain universal values that are seen as necessary for society, and particularly the minority, such as “religious toleration, associative freedoms, and other major liberties” (WHD 52). Further discussion of paternalism shall be involved in the critiques of Nussbaum’s capabilities approach in section III.

Several of the above features rely on Nussbaum’s concept of threshold. In order for “flourishing” to define a meaningfully different state of humanity some qualitative marker, such as thresholds, must be the measure of what’s important, which is capabilities in this case. These are accounts of human flourishing, and so these thresholds are based on accounts of human beings and seem to apply to humans; persons may only be made relevant to this approach insofar as they are humans. Thresholds need not always be functionally expressed, so long as the human is actually capable of expressing functioning above the threshold. And some features of the list require certain properties out of these thresholds: each capability must have a distinct threshold individual from those of the other capabilities, the threshold must be sufficiently specific for the approach to be universal, yet the threshold must be sufficiently plastic for multiple realizability to be feasible.

Despite the importance of the identification of threshold levels to her approach, Nussbaum leaves her thresholds widely unspecified and acknowledges that they will require specification (WHD 75). She envisions much of the specification is going to be done by individual governments. However, she is hesitant to offer even the roughest guidelines beyond examples of humans she considers to be wanting in regards to their capabilities and the

insistence on the intuitive grasp of when a human isn't capable of truly human functioning. The task of specification seems difficult, if not insurmountable, but the continuum of human functioning may be like other continuums along which we specify qualitative change when there seems none. At what point blue light becomes green light is unclear, and it is a human judgment that there is any real difference at all. The wavelengths of light make no qualitative change in going from blue to green; the light behaves the same regarding observations of physics, but there is a difference in the frequency of the wave. Some may take this to mean that the distinction between blue and green is arbitrary and impossible to specify. This does not make the distinction useless, however, as artists and interior designers make significant, informed decisions based on these arbitrary distinctions that make real differences in human interaction with the world.

Both the distinctions between blue and green and between flourishing and not are judged by persons, unlike the threshold where ice becomes water. Here, the temperature is variable (in relation to pressure, &c.) at which the change occurs, but there is a distinctive qualitative change, from solid to liquid, at the threshold that is significant, i.e. you can stand on ice but not water. If human capabilities have thresholds like water there should be an obvious outward change in the individual that does not rely on human observation. Since the threshold that is distinguished is judged by persons the capabilities are more closely analogous to the way in which we judge colors of light, rather than the way water turns to ice. In the case of capabilities, this is done by what is considered morally unacceptable or by tragedy, and in the case of light thresholds are determined by what we see.

The concept of a threshold is technically expanded and systematically used in neuroscience. It is not the only place that the concept of threshold is developed, and Nussbaum never acknowledges a connection with any prior conception of thresholds. However, the analogy between neural thresholds and moral human thresholds may be helpful. Since

Nussbaum doesn't posit any specific of definition of thresholds, how they work, or what they are supposed to be, this analogy with neural thresholds can help shed light upon these basic questions such that we may better understand how Nussbaum envisions her capabilities approach to function. The concept of threshold is integral to the model of the way in which neurons, the cells which make up the brain, spinal cord, and peripheral nervous system in animals, work.

Figure 1 is a simple schematic of a neuron, for reference.

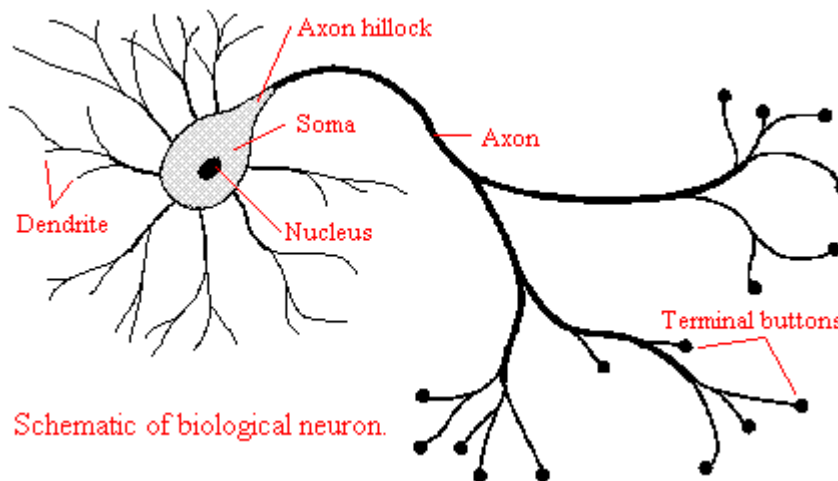


Figure 1: www.virtualventures.ca/~neil/neural/neuron1.gif

Neuroscience's model of neuron function is that neurons integrate multiple input signals into one simple response: either the neuron "fires" or it does not. This integration occurs in the head, or soma, of the neuron. Once a signal is fired from the axon hillock the signal will continue, unidirectionally, down the axon to the terminal buttons (Kandel et al 132). Intensity of a nerve impulse is not determined by the magnitude of the electrical charge sent down the axon, as one might think. This impulse is consistent in magnitude; rather, more or less intense messages are delivered by a modulation in the rapidity and sequence of impulses.

The physiology of a firing event, called an action potential, is determined by electrical gradients within the cell. A neuron changes the flux of charged particles, or ions, in and out of itself. Signals that affect the neuron do so by altering the ratio of different ions (sodium and potassium) within or without the cell. These incoming signals are input predominantly via other

neurons, whose terminal buttons are attached to the various parts of the head of the neuron, either the long spindly dendrites or the soma itself. The signals could also come from any of myriad sensory cells in the body, such as those in the eyes, ears, nose, or tongue as well as the more unfamiliar sensors, such as those that monitor blood pressure by measuring the expansion of blood vessels (Kandel et al 125).

The signals that input to a neuron are of two basic types: inhibitory and stimulatory. These are straightforward, inhibitory signals make an action potential less likely, stimulatory signals make an action potential more likely. Both of these effects are achieved by altering the electric ion gradient of the neuron appropriately (Kandel et al 125). All of this is happening in the dendrites, soma, and axon hillock. The most important site for the integration of the signals is the axon hillock, because if the electric gradient in this place reaches a certain level the cell will react. The sites which inhibitory and stimulatory inputs bind to the neuron are not random, however. Stimulatory inputs tend to be found on the dendrites and the parts of the soma farther away from the axon hillock. Inhibitory inputs tend to be found very near the axon hillock. This distribution is quite significant, because it means that one or very few inhibitory signals can block the effect of very many stimulatory effects. This result largely has to do with the geometric fact that the effect any input has diminishes proportional to the square of the distance from the input.

Once the electric level, or potential (also called voltage), in the axon hillock reaches a certain point (roughly -30 millivolts in human neurons) the cell reacts, causing a chain reaction to cascade down the axon. This cascade unidirectionally elevates the electric gradient all the way down the axon. This reaction is capable of causing muscle contraction, organic chemical release into the blood, or influence of other neurons. The electric potential which the axon hillock must experience in order to cause an action potential to cascade down the axon is termed the threshold of the neuron. Here is the concept of a threshold within the model of neuron functioning: a

certain electric potential must be reached in the axon hillock before a certain action can happen. This action either happens or it doesn't, and it does not occur with more or less intensity (as mentioned earlier).

The term threshold is appropriate to the model because the term is governing an event that is all or nothing. All of the thousands of inputs a neuron has into whether or not it fires are reduced into exactly a yes/no response. The voltage existent in the axon hillock at which a neuron produces an action potential propagating from the axon hillock to the terminal buttons neuroscientists have termed the threshold of that neuron (Kandel et al 132). This threshold is somewhat consistent among neurons of the same type, but it certainly might change within the cell over time due to changes in certain physiological and environmental features. Furthermore, the neurons of different animal species will fire at different threshold levels. This is similar to the way in which we might conceptualize human thresholds. Different humans at different points in their lives will require different environmental support in order to flourish, for example a child requires a higher percentage of protein although a lower overall calorie count and her ranges of healthy vital signs will be different than her adult self (M Spring). In neuroscience, while the specific voltage varies, the general form remains consistent across all neurons. In regards to evaluation of justice, the form of capabilities, assessed with thresholds, may be the general form although the specific threshold levels vary.

To reiterate, when the neuron's threshold is crossed, only then, and not until then, a significant and real change comes about in the neuron. The fact that thresholds model an all or nothing, binary event is worth belaboring, since that is the pertinent analogy to Nussbaum's use of thresholds in her capabilities approach. At least, this is the picture that Nussbaum would like to draw. Whether thresholds of human capabilities are actually like the conception of thresholds in neurons or like the conception of the difference between blue and green is a very important question. In any case, an external understanding of the meaning of "threshold" is important

since Nussbaum does not indicate any in-depth meaning of her own, even though much of her approach relies on the concept.

Consider this metaphor between neurons and capabilities. In neurons it is often the case that that a few inhibitors can prevent a threshold from obtaining, even in the presence of many stimulatory factors. Neurologically, this is most generally due to the arrangement of the different connections to the soma of the neuron, as noted earlier. We notice this same disparity, perhaps by coincidence, in our consideration of capabilities. For example, even if the myriad entities required for public sanitation, transportation, and commerce are in place, if a person has the physical health and mental abilities and desires to affiliate with others, given all these positive inputs, the strong threat of wanton ethnic violence would still likely force this human to remain indoors and cause the relevant capabilities not to obtain. That is, there is a disparity in influence between positive, i.e. stimulatory, and negative, i.e. inhibitory, effects. In this case the negative effects are more powerful. Regardless, this example highlights the interconnectedness of the various capabilities. It is certainly the case that a high level of capability in one area often facilitates a higher level in other capabilities. Likewise, an absence of a capability can greatly inhibit the development of other capabilities. For this reason, one might think of the capabilities each as individual entities, like neurons, but each connected to every other capability in complex ways. The metaphor is not nearly perfect, since a capability obtaining in a person often stimulates but almost never inhibits other capabilities, which is not the case in neurons. The metaphor is strong, however, in emphasizing the complicated interactivity between the different capabilities. While they are each important in their own right, they are also often vital to each other.

With this understanding of Nussbaum's capabilities approach, its use of the concept of thresholds, and the concept of threshold itself we are prepared to investigate the merits of the approach. The discussions of what flourishing is, what is flourishing (persons or humans), who

is flourishing (which nations), and how flourishing is assessed (thresholds) from this section will all be critiqued in the following.

Section III

There are several tensions set up within Nussbaum's capabilities approach which threaten to rend the approach apart. Nussbaum acknowledges in the preface to *Women and Human Development* that she is writing the book for a "broad interdisciplinary audience" and with the intent of "shaping public policy," and therefore her philosophical arguments, though all present, are somewhat compressed (WHD xiii). Given this, it is wise to first consult *Frontiers of Justice* for any theoretical updates or refinements, since it is the single main update to the capabilities approach. The approach is explicitly yet unfinished (FJ 414), though it is refined. Even so, the intent of this section is not to nitpick points which would benefit from a fuller discussion potentially forthcoming, but rather to identify areas that raise serious questions within Nussbaum's approach.

These inquiries will be in the areas of paternalism, multiple realizability, the cross cultural nature of thresholds, the implications of the conflation of human and person, the fair expenditure of a nation's resources, the quantification of a qualitative continuum by the use of threshold, and ideas of tragedy. As thresholds will prove inadequate, the idea of simply capabilities as valuable will also be considered, so as to not throw out the baby with the bathwater. Some alternatives to assessment of capabilities by thresholds will also be considered, namely comparison by inequalities rather than binaries and fair distribution rather than consideration of individuals' thresholds.

One possible critique is that, despite all the airs that she puts on, Nussbaum's account is, in fact, paternalistic. The problem with paternalism is the distinction between convincing someone of the truth and commanding someone of the truth. The capabilities approach could be paternalistic because, as a universal approach requiring the respect for persons as ends and such things, the approach does enforce values and processes upon the population unilaterally. Alternatively, one might be worried that the approach allows a freedom to specify manners of

achieving a flourishing citizenry, but the goal is doggedly fixed in any case. In another possible angle, one might object that in a democracy, since the majority automatically gets some command over the minority, some citizens (the minority) will always be forced to bend to the will of the majority and therefore suffer some injustice, whether it is paternalism or some other. Two of the critiques, about the paternalism of any universal ethic and the tyranny of the majority, are not problems specific to Nussbaum's approach but of the contractualist tradition and liberal democracy more generally. Such a broad critique shall not be undertaken here. The other concern is not really one of paternalism because it involves the flexibility of the thresholds that Nussbaum must specify; she intends the thresholds to be flexible enough to tolerate cultural diversity yet firm enough to actually require something of citizens and governments.

This attempt is embodied in Nussbaum's term multiple realizability, which may have one of three consequences along a sequence worthy of Goldilocks: too tight, too loose, or just right. If thresholds may in fact only be specified very tightly, there is no real freedom to the distinct groups specifying the approach for themselves because Nussbaum's capabilities and the specification of their thresholds must hold strongly so over everyone. This rigidity does not allow distinct groups the ability to significantly specify the capabilities' thresholds and in so doing removes the variable, culture-sensitive character of the approach. This conclusion is obviously contrary to the intent of Nussbaum's approach.

Another possibility is that the thresholds are to be specified loosely. The level of what is appropriate to be considered human flourishing is allowed to vary between nations, and thus between cultures. Thresholds vary over time within a nation, as well. And the compositions of nations and cultures are not constant either, with individuals moving in and out of them, nor is there a rigid definition of what delineates a specific culture. If the concept of multiple realizability is intended to allow threshold specifications to vary, they may vary across all of these variables, both between them presently and within one instance over time. This variation

sneaks in with the first bit of allowed variation and grow exponentially the more loosely the threshold is specified. Such variation seems to be at odds with a universal approach, although it allows the cultural variety that Nussbaum prizes. However, Nussbaum explicitly asserts the universality of her claim, so her claim of multiple realizability cannot be removing this. She also emphasizes that hers is a claim with global scope, as opposed to the national scope of her predecessors. In order to maintain the allowance for cultural variety, a supporter might claim that these variations are only able to occur within a certain limit. There is a broader, general sphere of specification and these variations are allowed to occur within it, but that variation is circumscribed within the acceptable levels.

A critic might ask what these acceptable levels are, and from where they are generated, and why all of this extra complication of smaller spheres exists if the acceptable levels were just specified so cleanly. Nussbaum never lays down such broad guidelines, except once with reference to education, and then parenthetically (FJ 180). Perhaps the answer is that one of the capabilities, practical reason, requires each flourishing person to be active in her life plan and have some control of her political situation. Even though it is doubtful she really does, given all of the obstacles in modern life and all of the politicians that make important decisions for the citizens of their country. These smaller spheres may be of practical political significance, since certainly only states currently have the power to enforce laws. But if there is a broader, all encompassing sphere, this is ethically what we are concerned with; the rest are political mechanisms that, while practically vital, are of little ethical importance.

These two sides of the coin leave little room for a happy medium. At the heart of this concern is Nussbaum's own lack of specificity of threshold levels. This silence on the issue may be out of respect for her readers and their governments to make their own conclusions on the subject, but she may also be silent because she actually cannot identify a threshold at which a qualitative change comes about in a human and is sufficiently general and variable. An attempt

at specifying a threshold should help us in this question. There are reasonably well established standards for determining whether or not a human is in good health, so let us consider Nussbaum's second capability, bodily health. This is not to be conflated with mental health, which would be under other capabilities. Mental well being certainly may influence bodily health, and while that interaction emphasizes the interconnectedness of the capabilities it will confuse our attempts here.

To measure health, a doctor might measure various vital signs such as temperature, blood pressure, pulse, respiratory rate, height, and weight (M Spring). Nussbaum adds to this a consideration as to whether the person has access to control over reproduction, such as contraception (FoJ 76). All of these vitals may vary significantly, for example "healthy" adult pulse rates fall between 60-100 beats per minute, although some marathon runners have resting pulses as low as 45 and are still considered healthy (M Spring). While this range is quite wide between individuals, the range does not vary at all in between cultures, races, or ethnicities. What is measured may vary between cultures may change, for example an acupuncturist may not care about pulse in the same way that a Western doctor does. That fact does not change or invalidate the Western doctor's measurements, nor do the doctor's invalidate the acupuncturist's. Likewise, malnourished African children may be treated much differently than they would were they in the US. This difference is due to a lack of means, however, not because the African children have a different threshold of what it is to be malnourished. They're just all malnourished and there is not much their governments can do about it (M Spring).

These differences in assessment technique and achievement may be what Nussbaum is talking about with multiple realizability. If she is talking about the actual standards of health varying between countries, she is at odds with the medical community. If she is only considering that there are different ways to assess health, her concept is thin and obvious. For example, if I measure a ruler in inches and my friend measures it in centimeters, neither of us are wrong about

the length of the ruler. We just have different ways of assessing it; likewise with the doctor and the acupuncturist neither is wrong. And presumably what we care about is the length of the ruler, i.e. the substance of the capabilities and what a human can be, not the system by which we measure that achievement.

Whether or not Nussbaum's ethic is multiply realizable or universal does not bear on its consistency, anyway. However, that is not the case for all of the tensions within the capabilities approach. The idea that human beings qua humans have innate properties, virtue, and dignity is an idea that Nussbaum is getting from Aristotle. Thus the "list of central human capabilities" (WHD 5), descending from this tradition, is a list that is likely meant to apply to all humans, simply due to the fact of being human. But Nussbaum's principle of each "[human's]"¹ capability is "based" on her principle inherited from Kant, her principle of each person as an end. Kant formulated this idea in the context of rational wills, not persons or humans. Rational wills include God, persons, and angels, basically. Rawls, like Kant, presumes that the property of citizens that is of primary importance is their rationality. These citizens may be persons, and have certain concerns for that reason, but the citizen must be rational in order to enter into the deliberations at the Original Position.

It is not clear that rational wills, Kant's topic, are entitled to or inherently any of the things that human beings are, such as capable of bodily integrity, since rational wills have no bodies. Nor is it clear whether rational wills include humans, persons, both, or neither. It is clear that the term is not exactly interchangeable with either human or person. As personhood relies more on mental properties than humanity, it is reasonable that person is better translation for rational will. The tension between the classifications is mitigated by the fact that most rational wills in our world are also humans and also persons, and so seem to have the properties of all sets. This convergence also hides the fact that Nussbaum conflates the two terms human

¹ For her referents to be consistent, by "person's capability" Nussbaum must actually have "human" in mind.

and person, basing some of her approach on the properties of humans and some on the properties of persons. But it is possible that the assumptions Nussbaum makes of capabilities via humanity yet dignity and respect via rationality are incompatible with any entity that is not a rational human person. This limits the scope of Nussbaum's approach, perhaps to somewhat healthy adult human beings, which would be narrower than she would like.

Furthermore, some utilitarians might object to Nussbaum's approach because it seems to require that a society devotes all its resources to bringing those who are below threshold above it in all areas to the exclusion of using the resources for everyone else in the society. The objector could proceed to claim that this is a waste of resources or unfair to those citizens who are above the threshold. The advocate of the capabilities approach agrees about the importance of the individual under threshold, that is indeed one of the major motivations behind the approach. She would simply disagree that the expenditure of resources is a waste; rather, it is the duty of the government to ensure the flourishing of each of its citizens because, as citizens and humans, they are entitled to develop their capabilities (WHD 83).

The actual cost depends on where Nussbaum intends to locate the threshold of various capabilities, which is a recurring deficiency in the approach. Also the monetary and time cost of securing that threshold for each person is uncertain. This concern is more a practical rather than philosophical matter, but philosophers recently have commented on it, and the UN makes reports on the cost of eradicating poverty. If poverty is any sort of rough estimation of capability deprivation, the estimations are encouraging. The cost may be much less than many Westerners know or would like to believe; providing food, water, sanitation, basic medicine and education might cost \$60 billion \$US per year for fifteen years (as of 2000). This is less than the United States spends annually on tobacco and alcohol (Singer 184). The UN's more demanding estimate from the same time period called for a mere 0.7% of the developed world's income over that time to solve the problem (Singer 180). These facts make the consistency of the capabilities

approach more palatable, but are irrelevant to the consistency of the capabilities approach in itself. It remains consistent because of the emphasis on and importance of the individual.

The conceptualization of capabilities as being measured by thresholds has to do with important features of the approach that are subject to investigation. Where the threshold is crossed indicates an intuitive qualitative difference between a person whose life is dignified and a person whose life is seriously lacking. The life is sufficiently lacking to justify terming it not fully or truly human. We can call where this qualitative change occurs the threshold of flourishing; here a change in a human's condition can be converted into a binary output, either flourishing or not. A simple count of citizens who are above the threshold in all areas produces a rudimentary quantification of the qualitative well-being of the citizens in a region. Such quantification is very useful, probably necessary, for political or goal-setting purposes, but may not actually be the best way of conceptualizing humans or persons.

Whether this quantification is a side effect of the nature of what is important about capabilities or whether the nature of capabilities is a side effect of a necessity for quantification is not clear. It is possible that the rhetorical requirements of writing in political philosophy have forced any theory to be quantifiable in order to have any influence on political bodies. Thus any theory hoping to carry weight in that field will have to force itself to be quantifiable, whether or not it is best for the view. The question this paper is addressing is whether or not the concept of threshold is the best by which to measure capabilities within the capabilities approach, not whether threshold is the best measure by which to purvey capabilities to political bodies. It might be hoped that both the best measure of capabilities *per se* and capabilities *vis-à-vis* political bodies will be the same measure. But these goals cannot be presumed to have the same measure.

Nussbaum's move to identify which capabilities are central to human functioning, and thus which capabilities are to be measured and concern us in a normative theory, is vital if the

capabilities approach on the whole is to succeed. However, it is not clear that Nussbaum correctly identifies the ten capabilities. The selection of which capabilities are central may be subject to much of the same critique as where to place the threshold on each one. The capabilities are supposedly centrally human and exert a freestanding moral claim that they ought to be developed (WHD 83), but this is not obvious and Nussbaum does not provide real support for it. They are selected, however carefully, by humans from the range of human capabilities as to be the ones that might be most useful in thinking about how to plan our lives. Nussbaum is explicit in her rejection of any teleological, religious, or otherwise metaphysical basis for her selection of these capabilities and the threshold to which they should be developed (WHD 83). In this case, the capabilities seem baseless, although they are selected with motivations of political expediency supposedly in order to allow all comprehensive doctrine to assent to the approach's assertions. However, whether they are endorsable by every reasonable comprehensive doctrine, or just many, or some, is questionable. Certainly any comprehensive doctrine that rejects any of Nussbaum's basic tenets could never agree to an overlapping consensus consisting of Nussbaum's capabilities.

In addition to introducing a list of capabilities, she needs to introduce the concept of assessing each to be able to tell whether or not the individual in question has or has not crossed a certain threshold. This list of capabilities may be more useful than the technique used to measure it, or visa versa. While threshold is closely associated with capabilities the two are distinct and separable. Nussbaum already writes of many of her capabilities as requiring a fair distribution, and in some cases strict equality, in order to be just, anyway (FJ 292). Soon, we shall consider whether or not this is a more appropriate measure of the capabilities as a whole.

Thresholds measure a distinct qualitative break on the continuum of improvements in well-being. Normally, being a little better off is a little better. This concept might be called gradualism. The capabilities approach bucks this trend, and claims that there is actually only one

point at which any better is better at all. With the capabilities approach, there is for each individual a specific level that makes a tenacious moral claim, which takes priority over improvements to that person in other capabilities and in other people. But insofar as the approach recognizes that thresholds may vary along something, and that human's actual capabilities may vary along something, this thing is a continuum. There are not discrete quanta of well-being, there is a gradient scale. The capabilities approach claims that this continuum contains a level at which there is a qualitative difference between what is below it and what is above it. However it is not patently clear that the threshold Nussbaum is conceptualizing is a distinction that already exists within the continuum of human well-being and she is identifying it, or, rather, if she is arbitrarily imposing a break along a continuum on which no such break exists. To help with this question, it may be helpful to reconsider the analogy with colors, which exist on a perfect continuum along the wavelengths of visible light.

At some point, blue light becomes green light. The only difference is that green light is slightly lower in energy; there is no qualitative difference in the composition of the energy. The distinction between blue light and green light is a human distinction, and a qualitative distinction between two aspects that are not qualitatively different. One could say that the light does not care one iota whether we call it blue or green. There is also not a clear point at which green light becomes blue, in other words there is an area that is indeterminate. These observations make the human distinction seem meek or frail compared to the "real" world.

The meekness of our human distinction does not mean, however, that we cannot distinguish between the two colors in the majority of cases nor that the distinction is not profoundly useful to us. Artists, interior designers, and many people who get dressed in the morning make use of the relationships between colors. There is even a somewhat complex system of classification of complementary colors, warm colors, and soft colors, as well as the interactions and uses of such classifications with each other and the human psyche. Furthermore,

even optical science makes some distinctions between classes of radiation, of which visible light is one. These distinctions between types, such as ultraviolet, visible, or microwaves, are useful because each type possesses certain distinct qualities when interacting with the physical world, even though they exist on a perfect continuum with no fundamental distinction between them. When crossing some human imposed, arbitrary, but well-reasoned threshold, visible light becomes infrared (for this example when we can no longer see it).

These reflections provide hope that the capabilities approach is not ill-advised in imposing a similar sort of threshold upon the continuum of human well-being. There may be no fundamental, indisputable distinction on which to attribute the threshold level, but the threshold conception may yet prove profoundly useful in planning or developing our lives. The analogy is not perfect, of course. With light we can rely on simple observation. We see blue or green, it does not require judgments as does judging how healthy someone is. Even the simple observation that x-rays pass through certain materials that visible light does not aids in maintaining these distinctions. These observations can be measured (objectively) with numbers in a way that human well-being certainly cannot. The capabilities approach helps us assess well-being by itemizing the components of it into more manageable parts. However, the basis upon which we identify the level at which the threshold is crossed is not so clear. Unlike the threshold where ice becomes water, the threshold of human capabilities is assigned by humans. This fact makes capabilities' thresholds more difficult to determine, if not impossible. Since there is no clear answer as to where these human thresholds occur, the idea that a little more is a little better, no matter at what level of capability, remains more plausible.

There are further critiques of identifying thresholds. Additionally, some might object that these considerations of flourishing and tragedy are not sufficient to adequately discuss capabilities because different people disagree about whether or not even canonically tragic or flourishing characters are either. Even given that they are tragic or flourishing there is often

disagreement about the important characteristics that identify them as so. What we might do is take the cases that a majority of citizens consider to be tragic. This tactic would make the opinions of a minority of citizens irrelevant, though, which seems to be against the spirit of Nussbaum's approach; the spirit that each individual is of primary importance. Again, there is a problem of process in identifying threshold. It is not as though we could do it if we had the information. These flaws indicate the conclusion that thresholds cannot be sufficiently specified.

It may be that the whole concept of threshold is not the best measure of human capability, in regards to justice or anything. Nor is it necessary; all of the math that economists and politicians would like to do using the binary output of thresholds can actually be done using inequalities – A is overall more capable than B, &c. Furthermore, what may be fair is relatively little inequality among citizens in regards to the capabilities, not that they all be above a certain level of capability. This view would be much closer to Rawls's view of justice as fairness. This measure would still measure the modern world as incredibly unfair, since certain people have phenomenally greater capabilities than others. In considering reduction of inequality as important it ought to be noted that there are sufficient material resources in the world that everyone being roughly equal is not equivalent to no one flourishing; this is motioned at by the cost estimates of eliminated poverty indicated above. It would also still promote redistribution of wealth, and improving the condition of women, both of which Nussbaum favors. A capabilities approach addressing inequality rather than threshold would also alleviate the horribly sticky situation of actually specifying where citizens cross the threshold. We may have good reason to substitute Nussbaum's affinity to threshold with a concept based on reduction of inequality, or a fair distribution. In addition, inequality is a more timeless and automatically adjusting goal, as opposed to Nussbaum's own concession that the threshold levels she is envisioning will vary somewhat over time, more or less significantly dependant on the capability in question (WHD 77, see footnote 81 also).

We have reason for maintaining her list of capabilities and discarding her standard of assessment (thresholds). First, Nussbaum presents criteria for us to decide which capabilities are central to human functioning, albeit an imperfect and subjective one: that of reflection upon both tragic and good human lives and observing what capabilities are key to that distinction. The capabilities are yet another attempt in the history of philosophy at identifying first principles that are common between all of us from which one may derive normative principles. Nussbaum's imperfect approaches may be sufficient for identifying the broad topics which we ought to care about even though it seems clear that they are too vague for us to be able to identify thresholds. It is at least easier to argue for capabilities themselves than for thresholds; Nussbaum's books as a whole demonstrate this. Also, if the capabilities approach, such as supported by Sen as well, is to be made feasible, some list of which capabilities are to be considered must be posited at some point. And there seems to be reason within welfare economics to pursue this approach. For this reason Nussbaum's list can at least be seen as somewhere from which to start. In this way the capabilities approach provides an alternative to the traditional conception in the social contract tradition in which the only dependable feature of people is that they will act in accordance to rational self interest. Nussbaum is aware that she is proposing an approach outside the norm in this manner (FJ 408-409). Additionally, if the capabilities are to be considered they need not be considered by reference to thresholds. There are viable alternatives for assessing the capabilities, as mentioned above, such as by inequalities and/or fair distributions.

Several problems have been identified with the capabilities approach, although it has withstood some tests. It has been demonstrated that the approach is not paternalistic, nor would it require an unfair or unjustified use of resources by a government. There are continuums, similar to that of human well-being, to which thresholds have been usefully applied by people. And the capabilities themselves seem plausible as something to care about in regards to normative theories. Most of the critiques of the approach that involved the concept of thresholds

were more damaging. Nussbaum's concept of multiple realizability does not appear to be a substantive feature of the approach, but rather a political tool. This failure is because, for measurable capabilities like health at least, the threshold of what is considered acceptable does not in fact vary across cultures any more than it does between humans within a culture. Nussbaum conflates the terms "human" and "person," which is confusing in general and limits the scope of her approach to the intersection of the two terms. Unfortunately, she applies her approach to the union of the two terms. Due to the weakness of any attempt to specify thresholds, with their characteristic binary output, gradualism and assessment via absolute inequalities seem more attractive as assessments of capabilities.

There is one important feature of citizens that Nussbaum is capturing in her capabilities approach. Other social contract theories limit their concept of citizens to merely rational entities, and attempt to derive their principles from this alone. This oversimplification does indeed cause these views the problems that Nussbaum points out, even if she has not completely succeeded in offering the alternative that she had hoped. The capabilities approach takes a much more complex, and accurate, view of citizens. While citizens are rational, they are not always. They are emotional, imaginative, social, and material. Any view, political or philosophical, that is going to accurately handle a topic has to start with an accurate conception of it. Additionally, if the topic is persons, or humans, that should be made clear. But historically, at least recently, persons have been reduced to something they are not – purely rational – in considerations of us. Although it will be more complex to handle fully everything that a person is, that cannot be avoided. We are complex entities, and should be handled as such.

Appendix i

the 2000 version of the list of central human capabilities

Additions to the list featured in *Frontiers of Justice* are in brackets []. Items which were removed from this version are underlined. Rearrangements are indicated by stars *, **.

1. *Life*. Being able to live to the end of a human life of normal length; not dying prematurely, or before one's life is so reduced as to be not worth living.
2. *Bodily health*. Being able to have good health, including reproductive health; being adequately nourished; to have adequate shelter.
3. *Bodily integrity*. Being able to move freely from place to place; having one's bodily boundaries treated as sovereign, i.e. being able to be secure against assault, including sexual assault, child sexual abuse, and domestic violence; having opportunities for sexual satisfaction and for choice in matters of reproduction.
4. *Senses, imagination, thought*. Being able to use the senses; being able to imagine, think, and reason – and to do these things in a “truly human” way, a way informed and cultivated by an adequate education, including, but by no means limited to, literacy and basic mathematical and scientific training. Being able to use imagination and thought in connection with experiencing and producing self-expressive works and events of one's own choice, religious, literary, musical, and so forth. Being able to use one's mind in ways protected by guarantees of freedom of expression with respect to both political and artistic speech, and freedom of religious exercise. Being able to search for the ultimate meaning of life in one's own way. Being able to have pleasurable experiences, and to avoid non-necessary pain.
5. *Emotions*. Being able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger. Not having one's emotional development blighted by fear or anxiety, or by traumatic events of abuse or neglect. (Supporting this capability means supporting forms of human association that can be shown to be crucial in their development.)
6. *Practical reason*. Being able to form a conception of the good and to engage in critical reflection about the planning of one's own life. (This entails protection for liberty of conscience [and religious observance].)
7. *Affiliation*. **A.** Being able to live [with]for and towards others, to recognize and show concern for other human beings, to engage in various forms of social interaction; to be able to imagine the situation of another and to have compassion for that situation; to have the capability for both justice and friendship. (Protecting this capability means protecting institutions that constitute and nourish such forms of affiliation, and also protecting the freedom of assembly and political speech).
- B.** Having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others. This entails, at a minimum, protections against [provisions of non-]discrimination on the basis of race, sex, sexual orientation, *religion, caste, ethnicity, or national origin*. **In work, being able to work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers. ** [(2006 version puts this sentence in #10)]
8. *Other species*. Being able to live with concern for and in relation to animals, plants, and the world of nature.
9. *Play*. Being able to laugh, to play, to enjoy recreational activities.
10. *Control over one's environment*. **A. Political**: being able to participate effectively in political choices that govern one's life; having the right of political participation, protections of free speech and association.
- B. Material**: Being able to hold property (both land and movable goods), not just formally but in terms of real opportunity; and having property rights on an equal basis with others; having the right to seek employment on an equal basis with others; having the freedom from unwarranted search and seizure. ** (WHD 78-80)

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